IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

WP(C).No. 15717 of 2003(U)

PETITIONER:

SRI.D.RAJKUMAR, VILAYIL HOUSE,
THEVALLI P.O., KOLLAM.

BY ADV. SRI.A.SUDHI VASUDEVAN
SMT.BINDU K. NAIR

RESPONDENTS:

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1. THE FOREST RANGE OFFICER, CHELLETH RANGE

2. THE SECRETARY, DEPARTMENT OF FOREST AND WILD LIFE (B), GOVERNMENT OF KERALA, THIRUVANANTHAPURAM

3. THE EXECUTIVE ENGINEER, IRRIGATION DEPARTMENT, IRRIGATION DIVISIONAL OFFICE, ALAPPUZHA.

BY GOVERNMENT PLEADER C.M.SURESH BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 15717 of 2003

APPENDIX

PETITONER'S EXHIBITS

EXT.P1-	TRUE COPY OF THE TENDER NOTIFICATION ISSUED BY THE 3RD RESPONDENT DTED 3.4.02
EXT.P2-	TRUE COPY OF THE CHALANS ISSUED BY THE 1ST RESPONDENT TO THE petitioner DATED 4.4.03
EXT.P3-	TRUE COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT DATED 3.2.03
EXT.P4-	TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER TO 2ND RESPONDENT DATED 6.4.2003
EXT.P5-	TRUE COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT DATED 5.4.03
EXT.P6-	TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 29.4.03
EXT.P7-	TRUE COPY OF THE ORDER IN CMP NO.15238/02 BY THIS HON'BLE COURT DATED 2.4.02
EXT.P8-	TRUE COPY OF THE ORDER IN CMP NO.20749/02 BY THIS HON'BLE COURT DATED 3.5.02

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ORDER ON I.A. NOS.9469/2003, 180/2003 & 16522/2003
IN W.P.(C).15717/2003

DISMISSED

SD/-
C.N.RAMACHANDRAN NAIR

(TRUE COPY)

P.A TO JUDGE

C.N.RAMACHANDRAN NAIR, J

W.P.(C).No.15717 of 2003

Dated this the 8th day of March, 2007

JUDGMENT

Petitioner is challenging 48% interest demanded by the Government for belated payment of sale proceeds for purchase of teak poles. According to the petitioner, the rate of interest imposed is highly exorbitant and unauthorised by statute. The Government Pleader on the other hand contended that high rate of interest was charged on the petitioner's request for extension of time for payment beyond period provided under tender conditions. In fact, the rate of interest charged was initially at 18% which was increased to 24% and again to 48% per annum because the time sought for by the petitioner for payment was six months from the last date for payment. In principle, I find the rate of interest charged is justified because progressive rates of interest are charged as a disincentive against applying for more time and in delaying payment. The sales condition is that payment should be made within a reasonable time and on default, sale gets cancelled, entitling reauction of goods at the

risk and cost of the purchaser. In order to avoid this worse consequence, petitioner applied for extension of time and there is nothing wrong on the part of the Government in charging high rate of interest as an incentive for early payment. Therefore, in principle, the government is right in charging penal interest at progressive rate in proportion to period of delay in payment. However, this Court passed an interim order permitting the petitioners to get the goods on payment of entire balance amount with 27.5% interest. I direct the first respondent not to demand any differential interest from the petitioners for the consignment already lifted by him against payment in terms of interim orders. However, penal charges can be levied, in case there was delay in making payment and in taking delivery beyond time granted by this court.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR,
JUDGE

csl